

THE HON'BLE SRI JUSTICE V.V.S.RAO

-
WRIT PETITION No.4764 of 2007

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Dated:08.03.2007

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Between:

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Datla Venkata Ramanayamma.

...Petitioner

and

The Revenue Divisional Officer and others.

...Respondents

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ORDER:

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The petitioner is a resident of Kakinada. She is allegedly the owner of land admeasuring Ac.1.20 cents in Survey No.295-1D situated at Kolanka Village of Kajuluru Mandal in East Godavari District. The petitioner alleges that the said property fell to the share of her mother by virtue of a registered settlement deed dated 25.02.1947, which was executed by her father, and she has been in possession of the same since 1958. Her name was entered in the revenue records and record of rights under the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). She was also issued pattadar pass books and title deeds on 22.06.1995. When there was interference from respondents 2 and 3, she filed a suit for injunction, being O.S.No.691 of 2006, on the file of the Court of the II Additional Junior Civil Judge, Kakinada. The second respondent also filed O.S.No.146 of 2006 on the file of the Court of the I Additional Junior Civil Judge, Kakinada. These are pending. It appears, respondents 2 and 3 preferred an appeal before the first respondent under Section 5(5) of the Act. Aggrieved by this, the petitioner seeks a writ of mandamus declaring the action of the first respondent in entertaining the appeal preferred by respondents 2 and 3 as illegal and arbitrary. The petitioner also seeks a direction to the first respondent not to adjudicate the appeal.

Learned Counsel for the petitioner submits that in the absence of an application under Section 10(2) of the Act read with Section 5 of the Limitation Act, 1963, the appeal filed by respondents 2 and 3 with a considerable delay would not have been entertained by the first

respondent. Secondly, he submits that when pattadar pass books are issued and entries are made in the record of rights, no appeal would lie under Section 5(5) of the Act.

After getting instructions, learned Assistant Government Pleader for Revenue (General-A) opposed the Writ Petition. He submits that the case was posted yesterday and none appeared. The same stands adjourned by one week. He submits that the objections raised by the petitioner herein can as well be raised by the petitioner before the first respondent.

It is the case of the petitioner that she obtained pattadar pass books on 22.06.1995. Under section 5(5) of the Act, any person aggrieved by any order or proceedings issued by the recording authority, namely, the Mandal Revenue Officer, can file an appeal within sixty days from the date of receipt of the communication of the order. Section 10(2) of the Act makes Sections 5 and 12 to 24 of the Limitation Act applicable for the purpose of extension of the period prescribed *inter alia* under Section 5(5) of the Act. It is thus, competent to the first respondent to entertain the delayed appeal. Therefore, the petitioner can file necessary counter before the first respondent raising all the objections. In such an event, this Court observes that the question of maintainability and question of limitation may be decided by the first respondent as preliminary issues. In this Writ Petition no relief can be granted to the petitioner.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

(V.V.S.RAO, J)

08.03.2007

vs